

Employee's Guide to a Workers' Compensation Hearing

Nearly all workers' compensation claims in Utah are settled to the satisfaction of the employee, employer and workers' compensation carrier. In a few cases, an employee is dissatisfied and decides to contest the decision of the workers' compensation insurance carrier. If the employee decides to do this, the employee can challenge the decision by applying for a hearing with the Adjudication Division of the Labor Commission. This brochure offers a guide to the Adjudication Division hearing process.

Do You Need Legal Representation?

Only you can decide if you need an attorney. We neither require nor discourage legal representation. However, in complex cases, you may be at a disadvantage without legal counsel. An attorney is the only person allowed to charge a fee to represent you. Attorney fees are fixed by the Labor Commission and are contingent, which means the attorney is paid only if you win. The attorney fees are deducted from your award if you win.

The Hearing Process May Include Four Levels:

- Adjudication Division of the Labor Commission Evidentiary Hearing
- Labor Commissioner or Appeals Board Review
- Utah Court of Appeals
- Utah Supreme Court

If all parties agree with the decision at any of the hearing levels, the decision is final. If not satisfied, you, the employer or the workers' compensation carrier may appeal the decision to the next level.

Requesting a Hearing Before the Adjudication Division Steps:

1. Obtain, either in person, by mail or from the internet, an Application for Hearing from the Industrial Accidents Division
2. Fill in each line on the form thoroughly
3. Supply the following supporting documents:
 - Summary of Medical Record
 - List of medical providers for previous 15 years
 - Original notarized Authorization for Release of Medical Record for each provider listed
 - Submit Application for Hearing and all supporting documents to the Adjudication Division

Upon receiving your Application for Hearing and supporting documents, the Adjudication Division will send a copy of the application and documents to the employer and the employer's insurance carrier. The carrier or employer has 30 days to answer your

claim. The Adjudication Division will schedule an Evidentiary Hearing no earlier than four months following the 30-day period for answer.

During this period, the parties may exchange information through the discovery process. Commission rules require the parties to cooperate in exchanging information. You may also be required to undergo a medical examination by a physician of the employer/carrier's choosing. Failure to cooperate with discovery requests can result in dismissal of your application for hearing.

Adjudication Division Evidentiary Hearing

The Evidentiary Hearing is a formal hearing similar to a court hearing. Testimony is taken under oath and evidence is presented. Hearings are held in the Labor Commission Salt Lake City office or in Parowan for residents of Southern Utah. Your case will be heard by an Administrative Law Judge. The hearings are recorded and this recording, along with medical records and other exhibits presented at the hearing become the record of the case.

Preparation for an Evidentiary Hearing

- Prepare thoroughly and carefully
- Arrange to have all documents and medical reports and witnesses, if needed, at the hearing
- Know the exact dates you lost from work because of injury
- Prepare to present pictures and diagrams of the work area if needed
- Arrange for subpoenas through the Administrative Law Judge if needed, but remember that witness fees are paid by the person requesting the subpoena
- If you need a language translator you must provide one at the hearing (the translator does not have to be certified and can be a family member or friend); if the employer/insurance carrier disapproves of your translator, they are required to provide a qualified translator at their expense

At the Evidentiary Hearing

- State your position and present evidence, documents and witness statements
- Bring witnesses if needed to prove issues which are in dispute

The Administrative Law Judge will not announce a decision at the hearing, but will issue a written decision that is mailed to the parties. The Judge may refer your case to a Commission Medical Panel for review of disputed medical issues that arise during the Evidentiary Hearing. Medical Panel physicians may request to examine you. The Labor Commission will pay for the Medical Panel review and medical examination.

The Medical Panel's report will be mailed to you, the employer and the workers' compensation carrier by certified letter. Objections to the panel report may be filed within 15 days from the date of the certified letter. The objection will be considered and ruled on

by the Judge as part of a final order issued after evaluating the case in light of the panel's report.

Filing a Motion for Review

If dissatisfied with the decision of the Administrative Law Judge, you may file a Motion for Review within 30 days of the date of the Order. The Administrative Law Judge will refer the case for review to the Labor Commissioner or Appeals Board.

Appealing a Decision to the Labor Commissioner or Appeals Board

After the Motion for Review is referred for review, the case will be studied by the office of General Counsel and presented to the Commissioner or Appeals Boards. This review is of the case record only. No hearing is scheduled and no new evidence is taken. The Commissioner or Appeals Board may affirm, amend, modify or reverse the Administrative Law Judge's Order or return the case to the Judge for further proceedings or findings.

Using the Court Systems

You have the right to appeal the final ruling of the Labor Commission to the Utah Court of Appeals with a Notice of Appeal. You must file the Notice of Appeal within 30 days of the date on the Commission's written decision. The Court of Appeals may hear oral arguments in the case (no new evidence will be considered) and may affirm, amend, modify or reverse the Commission's decision or may even return the case to the Commission for further proceedings or findings.

You may appeal the case to the Utah Supreme Court. However, the claim may be heard only at the Court's discretion.

Enforcing the Payment of Benefits

If payment of benefits is awarded to you, but the carrier does not pay, you may enforce the award by initiating collection proceedings in the District Court system. You may prepare an abstract of the Judgment to be signed by the Labor Commission for filing by your attorney with the County Clerk. If you do not have an attorney, you may contact the General Counsel of the Labor Commission for advice on how to proceed.

Contacting the Commission

Further information about workers' compensation and hearings is contained in the Commission website at www.laborcommission.utah.gov.

If you have questions, call the Labor Commission at 530-6800 or use the statewide toll free number 1-800-530-5090.

For clarity, please refer to your case by the date of the injury, the name of the injured employee and the employer.

Please notify the Labor Commission immediately of an address change.